

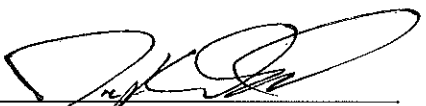
**CLASS DEVIATION FINDINGS AND DETERMINATION**  
**52.232-99, Providing Accelerated Payment to Small Business Subcontractors**


**Findings**

1. On July 11, 2012, the Office of Management and Budget (OMB) issued Policy Memorandum M-12-16, Providing Prompt Payment to Small Business Subcontractors, to direct agencies to, to the fullest extent permitted by law, temporarily accelerate payments to all prime contractors, in order to allow them to provide prompt payments to small business subcontractors. In this memorandum, OMB mandated agencies to, while this temporary one year accelerated payment policy is in effect, encourage prime contractors to pay small business subcontractors on an accelerated timetable to the maximum extent practicable.
2. As part of the implementation of OMB Memorandum M-12-16, on August 16, 2012, the Civilian Agency Acquisition Council (CAAC) issued Civilian Agency Acquisition Letter 2012-03 to authorize agencies to issue a class deviation in accordance with Federal Acquisition Regulation (FAR) 1.404, for contracting officers to insert, in accordance with FAR 1.108(d), an accelerated payment deviation clause in all new solicitations and resultant contracts, and, to the extent feasible, but without requiring consideration, modify existing solicitations and contracts to insert said clause, until such time as the clause is incorporated into the FAR or is rescinded.

**Determination**

It is hereby determined that this class deviation to incorporate FAR deviation clause 52.232-99 into all new solicitations and resultant contracts and existing solicitations and contracts, when feasible, is appropriate until the FAR is amended to incorporate the clause or until the clause is rescinded. The clause will shall be provided by Policy Flash.

  
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Joseph Waddell, Director  
Office of Acquisition Management

  
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Paul Bosco, Director  
Office of Acquisition and  
Project Management, DOE



**GSA Office of Governmentwide Policy  
CIVILIAN AGENCY ACQUISITION LETTER 2012-03**

August 16, 2012

**MEMORANDUM FOR CIVILIAN AGENCIES OTHER THAN NASA**

**FROM:** LAURA AULETTA   
CHAIR  
CIVILIAN AGENCY ACQUISITION COUNCIL (CAAC)

**SUBJECT:** Class Deviation from the Federal Acquisition Regulation (FAR) to Implement Office of Management and Budget (OMB) Policy Memorandum M-12-16, Providing Prompt Payment to Small Business Subcontractors

On July 11, 2012, OMB issued Policy Memorandum M-12-16, Providing Prompt Payment to Small Business Subcontractors. The memorandum directs that agencies should, to the full extent permitted by law, temporarily accelerate payments to all prime contractors, in order to allow them to provide prompt payments to small business subcontractors. While this temporary one year policy is in effect, agencies shall encourage prime contractors to pay small business subcontractors on an accelerated timetable to the maximum extent practicable.

OMB also worked with the FAR Council to develop the attached clause to require prime contractors to pay small business subcontractors on an accelerated timetable to the maximum extent practicable.

Effective immediately, agencies may authorize a class deviation, in accordance with FAR 1.404, for contracting officers to insert the attached clause in all new solicitations and resultant contracts and, to the extent feasible, modify existing solicitations to insert the attached clause. Contracting officers may amend existing contracts to insert this clause in accordance with FAR 1.108(d).

This CAAC letter constitutes consultation with the Chair of the CAAC required by FAR 1.404(a)(1) when the agency uses the attached clause. If an agency modifies the attached clause, the agency shall consult with the CAAC Chair, so that any agency modified clause can be coordinated with OMB to ensure consistency with the policy memorandum. The class deviation with the modified clause shall be emailed to Edward

Chambers at [edward.chambers@gsa.gov](mailto:edward.chambers@gsa.gov), with a copy emailed to [william.clark@gsa.gov](mailto:william.clark@gsa.gov).

A sample transmittal is also attached, which agencies may use at their discretion to explain the deviation to the acquisition workforce. Agencies need not notify the CAAC if they modify the language in the sample transmittal.

If you have questions or require additional information, please contact Edward N. Chambers at (202) 501-3221, or by email.

ATTACHMENTS

**52.232-99, Providing Accelerated Payment to Small Business Subcontractors  
(DEVIATION)**

The contracting officer shall insert the following clause in all solicitations and resultant contracts.

**PROVIDING ACCELERATED PAYMENT TO SMALL BUSINESS SUBCONTRACTORS  
(DEVIATION) (AUG 2012)**

This clause implements the temporary policy provided by OMB Policy Memorandum M-12-16, Providing Prompt Payment to Small Business Subcontractors, dated July 11, 2012.

- (a) Upon receipt of accelerated payments from the Government, the contractor is required to make accelerated payments to small business subcontractors to the maximum extent practicable after receipt of a proper invoice and all proper documentation from the small business subcontractor.
- (b) Include the substance of this clause, including this paragraph (b), in all subcontracts with small business concerns.
- (c) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.